IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 11805 of 2004

Between:

S.Laxmi Naryan Gupta, S/o.Venkat Ramaiah Shetty,
Aged 40 years, Occ:Business,

R/o.Bazaar Street, Chinnagottigallu, Chittoor.

..... PETITIONER

AND

1. The Station House Officer, Kodad Rural Police Station,

Nalgonda District.
2. The Deputy Commissioner of Proh. & Excise,

Mahaboobnagar Division, Mahaboobnagar Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, more particularly one in the nature of writ of Mandamus, to declare the action of the 1st respondent in seizing 340 bags of Black Jaggery and one bag of Alum under Crime No.155/ 2002 as illegal, arbitrary and consequently direct the respondents herein to release the said stocks.

Counsel for the Petitioner: MR. P.NAGESWARA RAO

Counsel for Respondents: GOVERNMENT PLEADER FOR PROHIBITION & EXCISE

The Court made the following <u>ORDER:</u>

This writ petition is filed seeking a declaration that the action of the Station House Officer, Kodad Rural Police Station, Nalgonda District, in seizing 340 bags of Black Jaggery and one bag of Alum under Crime No.155 of 2002 as arbitrary and illegal.

2. The case of the petitioner is that the first respondent has no authority whatsoever to seize the stocks in question since there is no law prohibiting or regulating the transporting and storing of Black Jaggery and Alum. However, the learned Government Pleader appearing for respondents opposed the relief sought by the petitioner stating that since the proceedings are pending before the competent Criminal Court, it would be open to the petitioner to approach the Criminal Court for release of the crime property. It is also relevant to note that the petitioner has already made an application before the Deputy Commissioner of Prohibition and Excise, Mahaboobnagar Division, on 5-11-2002, seeking release of the seized stock.

3. The learned Government Pleader has submitted that the Deputy Commissioner of Prohibition and Excise, Mahaboobnagar Division, is also competent to consider such a request made by the petitioner and to pass appropriate orders in accordance with law.

4. In the circumstances, I deem it appropriate to dispose of the writ petition with a direction to the Deputy Commissioner of Prohibition and Excise, Mahaboobnagar Division (second respondent herein), to consider the representation of the petitioner dated 5-11-2002 taking into consideration the fact that he is prepared to furnish bank guarantee for the value of the stock seized, and to pass appropriate orders in accordance with law as expeditiously as possible, preferably within a period of 2 (TWO) weeks from the date of receipt of a copy of this order.

5. Accordingly, the Writ Petition is disposed of. No costs.

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(G.ROHINI, J)

Dated: 26th July, 2004.

Ak/Nsr

To

1.The Station House Officer, Kodad Rural Police Station,

Nalgonda District.

2.The Deputy Commissioner of Proh. & Excise,

Mahaboobnagar Division, Mahaboobnagar Dist.

3.Two CCs to the Government Pleader for Prohibition and Excise,

High Court Buildings, Hyderabad (O.U.T).

4.Two CD copies.